

recess formed in the spacing member, and wherein the positioning means comprises a male threaded distal end having a size and configuration sufficient to permit threaded engagement between said male threaded distal end of the elongate member and the female threaded recess formed in the spacing member.

62. (New) The intervertebral spacing implant system of claim 54 wherein said spacing member comprises a planar upper surface and a planar lower surface, said spacing member further comprising a solid configuration characterized by the absence of through holes between said planar upper surface and said planar lower surface.

REMARKS

Applicant requests that this Amendment be entered prior to examination of this application. The subject matter added to the claims is supported in the disclosure, inter alia, in FIGS. 6 and 7, and is therefore not new matter. Amendments to the specification have been made as supported in the disclosure, inter alia, (i) by the original specification's reference to the term "non-porous," and (ii) by the original reference in the specification to "biologically compatible" and (iii) by the original reference in the specification to "inert," and (iv) by the original reference in the specification to multiple types of

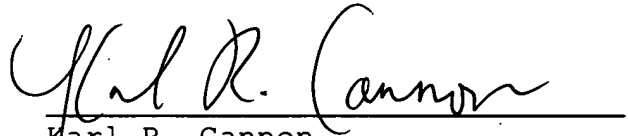
materials that meet those already-mentioned criteria. The original specification already supported the idea that materials that are inert or biologically compatible, such as titanium, or ceramic, or any other suitably compatible material, can be used to construct the invention. Also, the word "and" and "or" can both be either conjunctive or disjunctive, and so the amendments to the specification amounts to mere clarification, i.e. the original specification referred to materials that are either inert or biologically compatible. Accordingly, the rephrasing of the passage does not constitute new matter.

In view of the foregoing, applicants believe that claims 26-31, and 44-62 are all allowable and the same is respectfully requested. If any impediment to the allowance of these claims remains after entry of this Amendment, and such impediment could be alleviated during a telephone interview, the Examiner is invited to initiate the same.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 50-0836.

DATED this 22 day of January, 2002.

Respectfully submitted,



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